



OIL SPILL EXPEDITED SETTLEMENT AGREEMENT
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7, 901 N. 5th ST., KANSAS CITY, KANSAS 66101

Respondent: FedEx
1000 FedEx Drive
Moon Township, Pennsylvania 15108

04 MAR -4 PM 2:31

DOCKET NO. CWA-07-2004-0036
ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

On October 29, 2002 Time 11:30 p.m.

At: Eastbound on Interstate-270 at mile marker 32 in St. Louis, Missouri, FedEx (Respondent) discharged 100 gallons of diesel fuel (oil) in violation of Section 311(b)(3) of the Clean Water Act (the Act), as noted on the attached FINDINGS and ALLEGED VIOLATIONS FORM (Form), which is hereby incorporated by reference.

The EPA finds the Respondent's conduct is subject to the discharge prohibition of Section 311(b)(3) of the Act, as described in that statute and further described by 40 C.F.R. § 110.3. The Respondent admits being subject to Section 311(b)(3) and that EPA has jurisdiction over the Respondent and the Respondent's conduct as described in the Form. Respondent does not contest the Findings in the Form, and waives any objections it may have to EPA's jurisdiction.

The EPA is authorized to enter into this Expedited Settlement under the authority vested in the Administrator of EPA by Section 311(b) (6) (B) (i) of the Act, 33 U.S.C. § 1321(b) (6) (B) (i), as amended by the Oil Pollution Act of 1990, and by 40 C.F.R. § 22.13(b). The parties enter into this Expedited Settlement in order to settle the civil violations described in the Form for a penalty of \$400. Respondent consents to the assessment of this penalty.

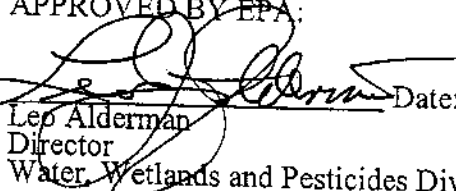
This Expedited Settlement is also subject to the following terms and conditions: Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that it has investigated the cause of the spill, it has cleaned up the spill pursuant to federal requirements, and it has taken corrective actions that will prevent future spills. The Respondent also verifies that it has sent a certified check for \$400 payable to the "Oil Spill Liability Trust Fund" to: Kathy Robinson, Regional Hearing Clerk, 901 N. 5th Street, Kansas City, Kansas, 66101. Respondent has written on the penalty payment check "EPA" and the docket number of this case, "CWA-07-...", as seen in the right hand corner of this document.

After this Expedited Settlement becomes effective, EPA will take no further action against the Respondent for federal civil penalties for the violations of Section 311(b)(3) of the Act described in the Form. However, EPA does not waive any rights to take any enforcement action for any other past, present, or future violations by the Respondent of Section 311(b)(3) of the Act or of any other federal statute or regulation. By its first signature, EPA ratifies the Findings and Alleged Violations set forth in the Form.

Upon signing and returning this Expedited Settlement to EPA, Respondent waives the opportunity for a hearing or appeal pursuant to Section 311 of the Act, and consents to EPA's approval of the Expedited Settlement without further notice.

This Expedited Settlement is binding on the parties signing below, and effective upon the Regional Judicial Officer's signature.

APPROVED BY EPA:


Leo Alderman
Director
Water, Wetlands and Pesticides Division

Date: 2/27/04

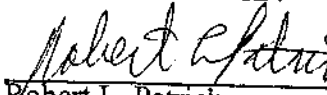
APPROVED BY RESPONDENT:

Name (print): Joseph E. Stearns

Title (print): ENVIRONMENTAL COORDINATOR

Signature: 

IT IS SO ORDERED:


Robert L. Patrick
Regional Judicial Officer

Date: Mar 4, 2004

DO NOT MAKE CHECK OUT TO REGIONAL
HEARING CLERK.

INSTRUCTIONS ON REVERSE

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VII, 901 N. 5TH STREET, KANSAS CITY, KANSAS, 66101
OIL SPILL EXPEDITED SETTLEMENT AGREEMENT

INSTRUCTIONS

The United States Environmental Protection Agency (EPA) has authority under Section 311 of the Clean Water Act to pursue civil penalties for oil spill violations. However, EPA encourages the expedited settlement of oil spill violations such as the violations cited in the Expedited Settlement Agreement for which these instructions are provided.

You may resolve the cited violations quickly by signing and returning the original Expedited Settlement Agreement and paying the penalty amount within 30 days of your receipt of the Expedited Settlement Agreement. EPA, at its discretion, may grant one 30-day extension for cause upon request. The Expedited Settlement Agreement is binding on EPA and the respondent. Upon signing and returning of the Expedited Settlement Agreement, a copy of which should be retained by you, EPA will take no further action against you for these violations. EPA will not accept or approve any Expedited Settlement Agreement returned more than 30 days after the date of your receipt of the settlement agreement unless an extension has been granted by EPA.

If you do not sign and return the Expedited Settlement Agreement with payment of the penalty amount within 30 days of receipt, the Expedited Settlement Agreement will be automatically withdrawn, without prejudice to EPA's ability to file an enforcement action for the above or any other violations. Failure to return the Expedited Settlement Agreement within the approved time does not relieve you of the responsibility to comply fully with the regulations, including correcting the violations that have been specifically identified in the "FINDINGS AND ALLEGED VIOLATIONS." If you decide not to sign and return the Expedited Settlement Agreement and pay the penalty EPA can pursue more conventional enforcement measures and seek penalties of up to \$11,000 per violation, up to a maximum penalty of \$27,500.

You are required in the Expedited Settlement Agreement to certify that you have corrected the violations and paid the penalty amount. The payment for the penalty amount must be in the form of a certified check payable to the "Oil Spill Liability Trust Fund" with the Docket Number referenced on the check, "CWA-07-....," as seen in the right hand corner of the Settlement Agreement.

A copy of the Settlement Agreement and certified check should be sent to:

Robert Webber
Enforcement Coordinator, ARTD/STOP
U.S. Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Payment of the penalty amount and Settlement Agreement should be sent sent via certified mail to:

Kathy M. Robinson
Regional Hearing Clerk
U.S. Environmental Protection Agency
901 N. 5th Street
Kansas City, KS 66101

By the terms of the Expedited Settlement Agreement, you waive your opportunity for a hearing pursuant to Section 311 of the Clean Water Act. EPA will treat any response to the proposed Expedited Settlement Agreement, other than acceptance of the settlement offer, as an indication that the recipient is not interested in pursuing this expedited settlement procedure.

If you have any questions, you may contact EPA Region 7 at (913) 551-7125.

FINDINGS AND ALLEGED CIVIL VIOLATIONS

1. FedEx is a corporation organized under the laws of Pennsylvania with a place of business located at 1000 FedEx Drive, Coraopolis, Pennsylvania 15108. The Respondent is a person within the meaning of Section 311(a)(7) of the Act, 33 U.S.C. §1321(a)(7).
2. Respondent is the owner of an onshore facility, a truck, within the meaning of Section 311(a)(10) of the Act, 33 U.S.C. §1321(a)(10), which was located at Interstate-270 at mile marker 32 in St. Louis, Missouri ('facility'), on October 29, 2002.
3. Section 311(b)(3) of the Act prohibits the discharge of diesel fuel (oil) into or upon the navigable waters of the United States or adjoining shorelines in such quantities that have been determined may be harmful to the public health or welfare or environment of the United States.
4. For purposes of Section 311(b)(3) and (b)(4) of the Act, 33 U.S.C. §1321(b)(3) and (b)(4), discharges of oil into or upon the navigable waters of the United States in such quantities that have been determined may be harmful to the public health or welfare or environment of the United States are defined in 40 C.F.R. §110.3 to include discharges of oil that cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines.
5. On October 29, 2002, Respondent discharged 100 gallons of diesel fuel (oil) as defined in Section 311(a)(1) of the Act, 33 U.S.C. §1321(a)(1), and 40 C.F.R. §110.1, from its facility into or upon an unnamed water body, a tributary to Maline Creek, Watkins Creek, and the Mississippi River, and adjoining shorelines.
6. The unnamed water body, a tributary to Maline Creek, Watkins Creek, and the Mississippi River, and adjoining shorelines are navigable waters of the United States as defined in Section 502(7) of the Act, 33 U.S.C. §1362(7), and 40 C.F.R. §110.1.
7. Respondent's October 29, 2002, discharge of diesel fuel (oil) from its facility caused a sheen upon or discoloration of the surface of the unnamed water body, a tributary to Maline Creek, Watkins Creek, and the Mississippi River, and adjoining shorelines, and therefore, was in a quantity that has been determined may be harmful under 40 C.F.R. §110.3, which implements Sections 311(b)(3) and (b)(4) of the Act.
8. Respondent's October 29, 2002, discharge of diesel fuel (oil) from its facility into or upon the unnamed water body, a tributary to Maline Creek, Watkins Creek, and the Mississippi River, and adjoining shorelines in a quantity that has been determined may be harmful under 40 C.F.R. §110.3 violated Section 311(b)(3) of the Act. Pursuant to Section 311(b)(6)(B)(i) of the Act, and 40 C.F.R. § 19.4, the Respondent is liable for civil penalties of up to \$11,000 per violation, up to a maximum of \$27,500.

IN THE MATTER OF FEDEX Ground, Respondent
Docket No. CWA-07-2004-0036

CERTIFICATE OF SERVICE

I certify that the foregoing Expedited SPCC Settlement Agreement was sent this day in the following manner to the addressees:

Copy hand delivered to
Attorney for Complainant:

Kristina Kemp
Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

FEDEX Ground
c/o CT Corporation System
401 Liberty Avenue
Pittsburgh, Pennsylvania 15222-1000

Copy by First Class Mail to:

US. Coast Guard
Finance Center (OGR)
1430A Kristina Way
Chesapeake, VA 23326

Dated: 3/4/04



Kathy Robinson
Regional Hearing Clerk